

Federal Deposit Insurance Corporation

§ 313.54

(3) *Review.* The FDIC is not authorized to review the merits of the creditor agency's determination with respect to the amount or validity of the debt certified by the creditor agency.

(4) *Employees who transfer from one paying agency to another agency.* If, after the creditor agency has submitted the debt claim to the FDIC, the employee transfers to a different paying agency before the debt is collected in full, the FDIC must certify the total amount collected on the debt. One copy of the certification shall be furnished to the employee, and one copy shall be sent to the creditor agency along with notice of the employee's transfer. If the FDIC is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund, or other similar payments, it must provide written notification to the agency responsible for making such payments that the debtor owes a debt (including the amount) and that the requirements set forth herein and in the OPM's regulation (5 CFR part 550, subpart K) have been fully met.

§ 313.50 Interest, penalties, and administrative costs.

Where the FDIC is the creditor agency, it shall assess interest, penalties, and administrative costs pursuant to 31 U.S.C. 3717 and 31 CFR parts 900 through 904.

§ 313.51 Refunds.

(a) Where the FDIC is the creditor agency, it shall promptly refund any amount deducted under the authority of 5 U.S.C. 5514 when the debt is compromised or otherwise found not to be owing to the United States, or when an administrative or judicial order directs the FDIC to make a refund.

(b) Unless required by law or contract, such refunds shall not bear interest.

§ 313.52 Request from a creditor agency for services of a hearing official.

(a) The FDIC may provide a hearing official upon request of the creditor agency when the debtor is employed by the FDIC and the creditor agency cannot provide a prompt and appropriate hearing before a hearing official fur-

nished pursuant to another lawful arrangement.

(b) The FDIC may provide a hearing official upon request of a creditor agency when the debtor works for the creditor agency and that agency cannot arrange for a hearing official.

(c) The Director shall arrange for qualified personnel to serve as hearing officials.

(d) Services rendered under paragraph (a) of this section shall be provided on a fully reimbursable basis pursuant to 31 U.S.C. 1535.

§ 313.53 Non-waiver of rights by payments.

A debtor's payment, whether voluntary or involuntary, of all or any portion of a debt being collected pursuant to this section shall not be construed as a waiver of any rights that the debtor may have under any statute, regulation, or contract except as otherwise provided by law or contract.

§ 313.54 Exception to due process procedures.

(a) The procedures set forth in this subpart shall not apply to routine intra-agency salary adjustments of pay, including the following:

(1) Any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a federal benefits program requiring periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less;

(2) A routine adjustment of pay that is made to correct an overpayment attributable to clerical or administrative errors or delays in processing pay documents, if the overpayment occurred within the four pay periods preceding the adjustment and, at the time of such adjustment or as soon thereafter as is practical, the individual is provided written notice of the nature and amount of the adjustment and the point of contact for contesting such adjustment; or

(3) Any adjustment to collect a debt amount to \$50 or less, if, at the time of such adjustment, or as soon thereafter as is practical, the individual is provided written notice of the nature and amount of the adjustment and the

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point of contact for contesting such adjustment.

(b) The procedure for notice to the employee and collection of such adjustments is set forth in § 313.55.

§ 313.55 Salary adjustments.

Any negative adjustment to pay arising out of an employee's election of coverage, or a change in coverage, under a federal benefits program requiring periodic deductions from pay shall not be considered collection of a "debt" for the purposes of this section if the amount to be recovered was accumulated over four pay periods or less. In such cases, the FDIC shall not apply this subpart C, but will provide a clear and concise statement in the employee's earnings statement advising the employee of the previous overpayment at the time the adjustment is made.

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Subpart D—Administrative Wage Garnishment

§ 313.80 Scope and purpose.

(a) These administrative wage garnishment regulations are issued in compliance with 31 U.S.C. 3720D and 31 CFR 285.11(f). The subpart provides procedures for the FDIC to collect money from a debtor's disposable pay by means of administrative wage garnishment. The receipt of payments pursuant to this subpart does not preclude the FDIC from pursuing other debt collection remedies, including the offset of federal payments. The FDIC may pursue such debt collection remedies separately or in conjunction with administrative wage garnishment. This subpart does not apply to the collection of delinquent debts from the wages of federal employees from their federal employment. Federal pay is subject to the federal salary offset procedures set forth in 5 U.S.C. 5514 and other applicable laws.

§ 313.81 Notice.

At least 30 days before the initiation of garnishment proceedings, the Director will send, by first class mail to the debtor's last known address, a written notice informing the debtor of:

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(a) The nature and amount of the debt;

(b) The FDIC's intention to initiate proceedings to collect the debt through deductions from the debtor's pay until the debt and all accumulated interest penalties and administrative costs are paid in full;

(c) An explanation of the debtor's rights as set forth in § 313.82(c); and

(d) The time frame within which the debtor may exercise these rights. The FDIC shall retain a stamped copy of the notice indicating the date the notice was mailed.

§ 313.82 Debtor's rights.

The FDIC shall afford the debtor the opportunity:

(a) To inspect and copy records related to the debt;

(b) To enter into a written repayment agreement with the FDIC, under terms agreeable to the FDIC; and

(c) To the extent that a debt owed has not been established by judicial or administrative order, to request a hearing concerning the existence or amount of the debt or the terms of the repayment schedule. With respect to debts established by a judicial or administrative order, a debtor may request a hearing concerning the payment or other discharge of the debt. The debtor is not entitled to a hearing concerning the terms of the proposed repayment schedule if these terms have been established by written agreement.

§ 313.83 Form of hearing.

(a) If the debtor submits a timely written request for a hearing as provided in § 313.82(c), the FDIC will afford the debtor a hearing, which at the FDIC's option may be oral or written. The FDIC will provide the debtor with a reasonable opportunity for an oral hearing when the Director determines that the issues in dispute cannot be resolved by review of the documentary evidence, for example, when the validity of the claim turns on the issue of credibility or veracity.

(b) If the FDIC determines that an oral hearing is appropriate, the time and location of the hearing shall be established by the FDIC. An oral hearing may, at the debtor's option, be conducted either in person or by telephone